United States Department of Labor
Employees' Compensation Appeals Board

A.J., Appellant	)	
and	)	**Docket No. 20-0484**
	)	**Issued: September 2, 2020**
DEPARTMENT OF THE TREASURY, INTERNAL REVENUE SERVICE, Rolla, MO, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
CHRISTOPHER J. GODFREY, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On January 2, 2020 appellant filed a timely appeal from a December 23, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[2]

[1] 5 U.S.C. § 8101 *et seq.*

[2] The Board notes that, following the December 23, 2019 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

ISSUE

The issue is whether appellant has met her burden of proof to establish a left wrist condition causally related to the accepted November 7, 2019 employment incident.

FACTUAL HISTORY

On November 7, 2019 appellant, then a 46-year-old contact representative, filed a traumatic injury claim (Form CA-1) alleging that on that day she sustained a small wrist fracture and swelling when an opened metal security gate recoiled and struck her wrist while in the performance of duty. She stopped work on November 7, 2019 and returned to work on November 9, 2019.

In a development letter dated November 18, 2019, OWCP informed appellant of the deficiencies in her claim and the type of evidence needed to establish her claim. It afforded her 30 days to submit the requested evidence.

Dr. Alexander S. Myong, an emergency medicine specialist, noted in a November 7, 2019 emergency room medical report that appellant was seen for upper extremity pain after a security gate at work hit her left wrist. He found no significant abnormalities on physical examination, but observed ecchymosis to the ulnar side of the left wrist and edema. Dr. Myong advised appellant to keep her wrist elevated and in a splint to aid with swelling and pain control.

A November 7, 2019 left wrist x-ray revealed fusion of the lunate and triquetrum, but no acute fracture or dislocation.

In a November 8, 2019 duty status report (Form CA-17), Dr. Jim J. Hong, a family medicine specialist, indicated that appellant injured her left wrist, hand, and fingers while entering a gate at work and was unable to resume regular work at that time.

Appellant noted her history of injury in a November 27, 2019 patient intake form. In a medical note and attendance card of even date, Dr. Hong diagnosed a left wrist sprain.

OWCP also received November 27 and December 3, 2019 physical therapy reports. In a November 27, 2019 report, Cynthia L. Glaenzer, a physical therapist, noted appellant's history of injury and indicated that she had been wearing a splint during the day and taking it off at night. Appellant reported experiencing pain on the outside of her wrist and tingling from the outside of her hand to her elbow. Ms. Glaenzer diagnosed a left wrist sprain.

In a December 3, 2019 attending physician's report (Form CA-20), Dr. Hong noted findings that included fusion of the lunate and triquetrum. He diagnosed wrist pain and checked a box marked "Yes" indicating that appellant's diagnosed condition was caused or aggravated by the claimed November 7, 2019 employment incident.

By decision dated December 23, 2019, OWCP accepted that the November 7, 2019 employment incident occurred, as alleged. However, it denied appellant's claim, finding that the medical evidence of record was insufficient to establish that her diagnosed left wrist sprain was

causally related to the accepted November 7, 2019 employment incident. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] has the burden of proof to establish the essential elements of his or her claim, including that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation of FECA,[4] that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.[5] These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[6]

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place, and in the manner alleged. The second component is whether the employment incident caused a personal injury and can be established only by medical evidence.[7]

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.[8] The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and specific employment factors identified by the employee.[9]

Pursuant to OWCP's procedures, no development of a claim is necessary when the condition reported is a minor one which can be identified on visual inspection by a lay person (*e.g.,*

---

[3] *Supra* note 2.

[4] *F.H.*, Docket No.18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

[5] *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

[6] *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

[7] *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

[8] *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

[9] *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

burn, laceration, insect sting, or animal bite).[10] No medical report is required to establish a minor condition such as a laceration.[11]

ANALYSIS

The Board finds that appellant has met her burden of proof to establish a left wrist condition causally related to the accepted November 7, 2019 employment incident.

OWCP found that the November 7, 2019 employment incident, in which an opened security gate recoiled and struck appellant on her left wrist, had occurred as alleged. The contemporaneous medical records provided a consistent history of injury and Dr. Myong noted, in his November 7, 2019 emergency room medical report, that he observed ecchymosis to the ulnar side of appellant's left wrist, as well as edema, resulting from the security gate hitting her wrist while at work. As the evidence of record establishes that appellant's employment incident resulted in a visible injury, the Board finds that appellant has met her burden of proof to establish ecchymosis to the ulnar side of the left wrist and edema causally related to the accepted November 7, 2019 employment incident.[12]

The Board further finds, however, that the medical evidence of record does not support a finding that appellant sustained any other left wrist conditions, including a left wrist sprain, due to the accepted employment incident.

In his November 7, 2019 medical report, Dr. Myong noted appellant's history of injury and physical examination findings. He did not, however, provide a specific diagnosis of an injury or medical condition, nor did he provide an opinion as to causal relationship. Similarly, in a November 8, 2019 Form CA-17 report, Dr. Hong noted appellant's history of injury, but did not provide a specific diagnosis. The Board has held that a medical report lacking a firm diagnosis and a rationalized medical opinion regarding causal relationship is of no probative value.[13] As such, Dr. Myong's November 7, 2019 report and Dr. Hong's November 8, 2019 report are insufficient to establish the claim for additional left wrist conditions.

In a November 27, 2019 medical note and attendance card, Dr. Hong diagnosed a left wrist sprain. However, he did not offer an opinion regarding the cause of appellant's diagnosed condition. As previously noted, reports that do not provide an opinion on causal relationship are of no probative value.[14] Therefore, this evidence is also insufficient to establish a left wrist sprain causally related to the accepted November 7, 2019 employment incident.

[10] *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.800.6(a) (June 2011). *See also S.K.*, Docket No. 18-1411 (issued July 22, 2020).

[11] *Id*.

[12] *Id*.

[13] *L.P.*, Docket No. 19-1812 (issued April 16, 2020); *S.J.*, Docket No. 20-0157 (issued April 1, 2020); *P.C.*, Docket No. 18-0167 (issued May 7, 2019).

[14] *C.K.*, Docket No. 19-1549 (issued June 30, 2020).

In a December 3, 2019 Form CA-20 report, Dr. Hong checked a box marked "Yes," indicating that appellant's diagnosed wrist pain was caused or aggravated by the accepted November 7, 2019 employment incident. When a physician's opinion on causal relationship consists only of checking a box marked "Yes" in response to a form question, without explanation or rationale, that opinion has limited probative value and is insufficient to establish a claim.[15] Moreover, the Board has consistently held that pain is a description of a symptom and not, in itself, considered a firm medical diagnosis.[16] Thus, Dr. Hong's December 3, 2019 report is also insufficient to establish additional left wrist conditions.

Appellant also submitted a November 27, 2019 treatment note from Ms. Glaenzer, a physical therapist. The Board has held that treatment notes signed by a physical therapist are not considered medical evidence as these providers are not considered "physician[s]" as defined under FECA.[17] Therefore, this note lacks probative value and is insufficient to establish additional left wrist conditions.

Finally, appellant submitted a November 7, 2019 left wrist x-ray. The Board has held, however, that diagnostic studies, standing alone, lack probative value on the issue of causal relationship as they do not address whether the employment factors caused the diagnosed conditions.[18]

The Board therefore finds that appellant has submitted insufficient medical evidence to establish additional left wrist conditions, including a left wrist sprain, causally related to the accepted employment incident.

As appellant has established ecchymosis to the ulnar side of the left wrist and edema as accepted employment-related conditions, the Board will reverse, in part, the December 23, 2019 decision and remand the case for payment of medical costs and wage-loss compensation for disability, if any.

CONCLUSION

The Board finds that appellant has met her burden of proof to establish ecchymosis and edema of the left wrist causally related to the accepted November 7, 2019 employment incident.

[15] *V.W.*, Docket No. 19-1537 (issued May 13, 2020); *K.R.*, Docket No. 19-0375 (issued July 3, 2019).

[16] *See I.M.*, Docket No. 19-1038 (issued January 23, 2020); *B.P.*, Docket No. 12-1345 (issued November 13, 2012); *C.F.*, Docket No. 08-1102 (issued October 10, 2008). Findings of pain or discomfort alone do not satisfy the medical aspect of the fact of injury medical determination. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.4a(6) (August 2012).

[17] 5 U.S.C. § 8101(2) (this subsection defines a "physician" as surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law). *See David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA); *see also D.J.*, Docket No. 18-0593 (issued February 24, 2020) (physical therapists are not physicians under FECA).

[18] *J.P.*, Docket No. 19-0216 (issued December 13, 2019).

The Board further finds, however, that appellant has not met her burden of proof to establish other left wrist conditions causally related to the accepted November 7, 2019 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the December 23, 2019 decision of the Office of Workers' Compensation Programs is affirmed in part and reversed in part and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: September 2, 2020
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Christopher J. Godfrey, Deputy Chief Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board